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FILED IN DISTRICT COURT  
OKLAHOMA COUNTY

IN THE DISTRICT COURT OF OKLAHOMA COUNTY

DEC 17 2013

STATE OF OKLAHOMA

TIM RHODES  
COURT CLERK

KIDZONE LEARNING CENTER, INC., )

43

Plaintiff, )

v. )

CAPITOL INDEMNITY  
CORPORATION, )

Defendant. )

Case No. **13-2013-6888**

P E T I T I O N

Plaintiff states:

1. Plaintiff is a corporation and operates a day care facility located at 5408 South Pennsylvania, Oklahoma City, Oklahoma.

2. Defendant Capitol Indemnity Corporation issued a commercial insurance policy covering certain damage and losses which may occur to the day care facility, Policy No. BP00313792.

3. On March 30, 2013, and again on May 30, 2013, the day care facility suffered damage due to wind and rain.

4. Prior to March 30, 2013, Defendant Capitol Indemnity hired a contractor, Aspen Roofing, to inspect the roof for possible hail damage. Aspen's employee cut holes in the roof to check for storm damage, but failed to seal the holes during or after the inspection. During the storm of March 30, 2013, water poured into the ceiling spaces and down into the facility, damaging the facility. Capitol Indemnity is responsible directly for this damage because it hired



an unqualified roofing company to do the inspection, supervised the work, and had a non-delegable duty to ensure that its contractor's work was done properly.

5. Additional storm and water damage occurred during the May 30, 2013 storm.

6. The facility has had to close down due to storm and water damage, which has also led to respirable mold which may be hazardous to the health of people in the facility. Plaintiff Kidzone has and will lose income as a result.

7. Defendant Capitol Indemnity has refused to pay for damages due to storm and water damage to the facility, which are covered by the terms of the insurance contract it issued.

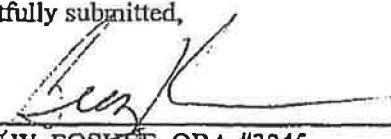
8. Defendant Capitol Indemnity has violated its obligation of good faith and fair dealing to its insured, Kidzone Learning Center, Inc., by adopting unreasonable interpretations of its own policy, and which would be in violation of the public policy of the State of Oklahoma.

9. Defendant Capitol Indemnity is under suspension by the Oklahoma Secretary of State for failing to abide by the tax laws of the State of Oklahoma, and is legally incompetent to answer or defend itself due to that suspension.

10. Defendant Capitol Indemnity's actions in this case were willful, reckless, and intention, such that punitive damages should be imposed.

WHEREFORE, Plaintiff Kidzone Learning Center, L.L.C. respectfully requests damages in excess of \$10,000.00, plus interest, attorney fees, and costs of this action.

Respectfully submitted,



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JERRY W. FOSHEE, OBA #3245  
GREGORY H. HAUBRICH, OBA #11854

-OF THE FIRM

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ATTORNEY'S LIEN CLAIMED